

REMARKS

Claims 1-16 are pending in the application. Claims 1-16 have been rejected.

Claim Rejections

Claims 1-5, 12 and 14-16 are rejected under 35 U.S.C. 103(a)

Claims 1-5, 12 and 14-16 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Richter et al. (US 6,363,587) in view of Kato (US 5,926,926). In Richter there is taught a mechanical fastener tape tab element comprising a tape tab backing (33) provided with a pressure-sensitive adhesive layer (36) which allows for attachment of a mechanical fastener material (31) and release tab (35). The tape tab backing (33) is separated into three distinct portions along its length – a first distal end portion (37), an inner tab portion (34) and a second distal end portion (39). The release tab is positioned along the inner tab portion (See Fig. 4). A mechanical fastener is adhered to second distal end portion of the backing tape. The mechanical fastener tape tab laminate of Richter allows the tab to remain in a folded condition around the edge of the diaper prior to use.

Kato discloses a hook or loop fastener comprising panels of loop material on a front section of a diaper. A hook assembly (16) is attached to the rear of the diaper (4). The hook assembly comprises a base tape (22) having an adhesive (21) on one surface for adhering the base tape at one end to the outer layer of the diaper. A panel of hook material (26) is adhered to the other end of the base tape. A cover (3) having an adhesive (34) on one surface is attached at one end to the base tape between the body of the diaper and the hook panel. A small panel of loops (40) is attached to the cover. The cover is adhered to the inner layer (6) of the diaper by an adhesive. The hook assembly is held in a closed position by engaging the hook material with the loop material on the cover until ready for use.

The Examiner acknowledges that Richter fails to disclose the backing layer of the release tape entirely covering the mechanical fastener of the

fastening tape. However, the Examiner contends that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to have provided the backing layer of the release tapes covering mechanical fasteners in Richter, et al in order to form a disposable absorbent article that has release tapes in the closed position in order to facilitate packing of the articles as taught by Kato.

Applicants submit that the references are not sufficient, either alone or in combination, to suggest Applicant's invention to one of ordinary skill in the art. In order to establish a prima facie case of obviousness, there must be: 1) some suggestion or motivation, either in the references themselves or in the knowledge generally available to one skilled in the art, to modify the reference or to combine reference teachings; 2) a reasonable expectation of success; and 3) the prior art reference(s) must teach or suggest all the claim limitations. Neither Richter, nor Kato, teach or suggest a release tape which entirely covers the mechanical fastener material wherein the fastening tape is releasably attached to the release tape.

The release tab (35) of Richter is positioned adjacent to the mechanical fastener along the inner tab portion (34) and does not cover the mechanical fastener (31) (see, for example, Fig 4). The release tab (35) and mechanical fastener (31) are in an abutting relationship, and when the tape tab laminate is folded, the mechanical fastener (31) remains exposed to the inner surface of the diaper (1) (see Figs. 6 and 11). Upon folding of the tape tab laminate (30), the adhesive (44) of the release tab adheres to the diaper (1), thereby keeping the tab in a folded condition and preventing extension of the tab beyond the edge of the diaper prior to use. The release tab (35) does not function in the same manner as Applicant's tape to protect the mechanical fastener (31) from contamination or damage during storage and transport. If one were to move the release tab of Richter to cover the mechanical fastener, the hooks (11) would remain covered with adhesive (44) upon unfolding, thereby not properly adhering to mating fastener (4).

The cover (30) of Kato is attached to the inner surface (6) of the diaper and is not releasable (see, Fig. 3). When the hook panel (26) is peeled away from the loop panel (40), the cover (30) remains attached to the diaper.

The release tape of Applicant's invention completely covers the mechanical fastener and does not remain adhered to the inner surface of the diaper upon unfolding of the closure tab. There is no teaching or suggestion in the reference combination to arrive at Applicant's claimed release tape. Furthermore, there is nothing in the cited references which provides a reasonable expectation for success should the proposed modification to Richter be made. Richter neither teaches nor suggests the protection of the mechanical fastener material. Kato does not cure this deficiency, as Kato would have the cover remain attached to the inner surface of the diaper. Thus, a prima facie case of obviousness has not been made with respect to claims 1-5, 12 and 14-16 under 35 U.S.C. §103(a), and it is respectfully submitted that the Examiner reconsider the rejection of Applicant's claims as based upon this reference combination.

Claims 6, 7 and 9-11 are rejected under 35 U.S.C. 103(a)

Claims 6, 7 and 9-11 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Richter et al. (US 6,363,587) in view of Kato (US 5,926,926) and further in view of Alberg et al. (US 6,526,631). The Examiner contends that Richter et al., as modified with Kato, disclose the claimed composite tape forming closure tabs for disposable articles above except for the intermediate section being extensible, at least one of the backing film and the backing layer comprises a non-woven polymeric film, an extensible composite or a textile.

Applicant's foregoing arguments with respect to Richter and Kato are equally applicable in that neither Richter nor Kato teach or suggest a release tape which completely covers the mechanical faster and does not remain adhered to the inner surface of the diaper. Alberg also teaches a mechanical fastener tape tab laminate in which the mechanical fastener remains exposed to the inner surface of the diaper. The rejection of claims 6, 7 and 9-11 should be

withdrawn because, as noted above, neither Richter nor Kato teach a composite release tape wherein the tape entirely covers the mechanical fastener of the fastening tape. Since there is no such teaching in Albert, the rejection of the combination of references should be withdrawn.

Claim 8 is rejected under 35 U.S.C. §103(a)

Claim 8 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Richter et al. (US 6,363,587) in view of Kato (US 5,926,926) and further in view of Pape et al. (US 4,726,971). The Examiner contends that Richter et al., as modified with Kato, disclose the claimed composite tape forming closure tabs for disposable articles above except at least one of the backing film and backing layer comprises paper.

Pape et al. teach a composite tape forming closure tabs for disposable articles having at least one of the backing film and backing layer comprises paper for the purpose of forming closures for disposable diapers.

The rejection of claim 8 should be withdrawn because, as noted above, neither Richter nor Kato teach a composite tape wherein the release tape entirely covers the mechanical fastener of the fastening tape. Since there is no such teaching in Pape et al, the rejection of the combination of references should be withdrawn.

Claim 13 is rejected under 35 U.S.C. §103(a)

Claim 13 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Richter et al. (US 6,363,587) in view of Kato (US 5,926,926) and further in view of Borgers et al. (US 4,795,456). The Examiner contends that Richter et al., as modified with Kato, disclose the claimed composite tape forming closure tabs for disposable articles above except the bonding section is weld to the disposable absorbent article.

Borgers et al. teach a composite tape forming closure tabs for disposable articles where the bonding section is welded to the disposable absorbent article

for the purpose of forming a tab that provides stabilizing means for preventing premature extension of an extensible diaper tab.

The rejection of claim 13 should be withdrawn because, as noted above, neither Richter nor Kato teach a composite tape wherein the release tape entirely covers the mechanical fastener of the fastening tape. Since there is no such teaching in Borgers et al, the rejection of the combination of references should be withdrawn.


Conclusion

In view of the foregoing remarks, Applicant respectfully request reconsideration and a timely issuance of a notice of allowance for claims 1-16.

In the event any fees are due in connection with the filing of this document, the Commissioner is authorized to charge those fees to our Deposit Account No. 18-0988 under Attorney Docket No. **AVERP3435USA**.

Respectfully submitted,

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